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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/859,410	05/18/2001	Norbert Korenjack	PW 280860	3670

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 08/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/859,410

Applicant(s)

KORENJACK ET AL.

Examiner

Frank Vanaman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-54 is/are pending in the application.
- 4a) Of the above claim(s) 27,30,33-36 and 39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 23-26,28,29,31,32,37,38,40-48 and 50-54 is/are rejected.
- 7) ☐ Claim(s) 49 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7, 8, 13. 6) ☐ Other: _____

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Election/Restriction

1. Applicant's election of the sub-species I, III, VI and VII in papers 10 and 12 (taken together) is acknowledged. Applicant has identified claims 27, 30, 33, 35 and 39 as not being directed to the species of invention comprising the elected sub-species. The examiner notes that the subject matter of claim 34 is directed to the species shown in figure 7 (non-elected sub-species V) and the material of claim 36 is directed to the species shown in figure 6 (non elected sub species IV), and as such, an office action on claims 23-26, 28, 29, 31, 32, 37-38 and 40-54 follows.

Oath/Declaration

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The specification to which the oath or declaration is directed has not been adequately identified. See MPEP § 601.01(a).

The declaration filed neither refers to the specification by title nor indicates that it is attached to the specification.

Claim Objections

3. Claim 42 is objected to because of the following informalities: on line 6, it appears as though "cables" should be --cable--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claim 48 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 48, line 2, "the at least one replaceable gear" lacks a clear antecedent basis. Note that claim 48 does not depend from claim 47 as written.

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Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 23-26, 28, 29, 31, 40, 41, 46, 48 and 52-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Kimura (US 4,425,976, cited by applicant). Kimura teaches a go-kart (1) with a drive shaft (6) for driving rear wheels (7), a reciprocating piston (see figure 7) internal combustion engine having an output shaft (31) and a housing (5), a driving pinion (40, 41, 42) on the output shaft, a driven pinion (87) coupled to the drive shaft (6) which is within the housing and extends therefrom on opposite ends; reduction multi-gearing (54,55,56) on an intermediate lay shaft (45) for connecting the driving pinion to the driven pinion, the last stage of the multi gearing (e.g., the gears 54, 55, 56, and the connection to shaft 45) allowing a shifting of gears (through 46, 47, 51, 52, 53), the gear shifting operable through a lever (74) connected to a selection rod (46) by a cable (wire 71), wherein all the shafts of the assembly are positioned at fixed distances from one another; the housing being a closed housing made from a plurality of parts (28, 29, 11, 68, etc) which can be disassembled to provide access to the pinion (removal of 28 or 29) and at least one reduction gearing (removal of housing portion adjacent 68); the engine/gearing housing secured to the vehicle frame by at least one bolted clamp (24, 25, 27; 18, 19), releasably clamped between two chassis tubes (see figure 4) to occupy a space therebetween.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 42, 43, 44, 45, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura (cited above). Kimura teaches a go-kart with a drive shaft for driving rear wheels, a reciprocating piston internal combustion engine having an output shaft and a housing, a driving pinion on the output shaft, a driven pinion coupled to the drive shaft which is within the housing and extends therefrom on opposite ends; reduction multi-gearing on an intermediate lay shaft for connecting the driving pinion to the driven pinion, the last stage of the multi gearing allowing a shifting of gears, the gear shifting operable through a lever connected to a selection rod by a cable, wherein all the shafts of the assembly are positioned at fixed distances from one another; the housing being a closed housing made from a plurality of parts which can be disassembled to provide access to the pinion and at least one reduction gearing, the engine/gearing housing secured to the vehicle frame by at least one bolted clamp releasably clamped between two chassis tubes to occupy a space therebetween.

As regards claims 42-45, The reference of Kimura fails to teach the position of the shift lever as being mounted on the steering wheel, and the wire as being a Bowden cable. The location of a gear shift lever in association with a steering wheel is old and well known in vehicles having both automatic and manual transmissions, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to locate the shift lever proximate the steering wheel for the convenience of the driver, and to conform to expected vehicle control configurations. In that the wire taught by Kimura is taught to be usable in both pulling and pushing motions, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the wire of Kimura as a Bowden cable for the purpose of providing a sheath for the wire to protect the wire from damage while in use.

As regards claim 47, the reference of Kimura fails to specifically teach the replacement of a gear in the reduction assembly, however in view of the removable cover (adjacent 68) allowing access to the reduction gearing, it would have been obvious to one of ordinary skill in the art at the time of the invention to replace at least one gear with a different sized gear for the purpose of adjusting the speed range for one of the stages.

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8. Claims 32, 37, 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura in view of Crofts (US 5,720,248). The reference of Kimura is discussed above and fails to teach the provision of the pinion-to-drive-shaft connection as being releasable, including a hollow shaft integrally molded with the pinion, which encircles the drive shaft, and connects to the shaft with a flexible rubber coupling. Crofts teaches a drive connection for a pinion (16) which includes a hollow shaft (18, 19) encircling a drive shaft (23, 24) and connected thereto by a resilient elastomeric coupling (20). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the connection of the pinion to drive shaft of Kimura with a resilient elastomeric coupling as taught by Crofts for the purpose of reducing shocks to the driven wheels associated with shifting gears.

9. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura in view of Watanabe et al. (US 4,448,279). The reference of Kimura is discussed above and fails to teach a starter ring gear on the output shaft, and a starter motor which drives the ring gear through gearing on a lay shaft. Watanabe et al. teach a vehicle with a small engine, which is provided with a starter motor (66) which drives a ring gear (65) through gearing (66a, 66d, 66f) on a lay shaft (66e). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the engine of the vehicle of Kimura with a starter system as taught by Watanabe et al. for the purpose of allowing a user to easily start the engine.

10. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura in view of Nakano et al. (US 6,213,063, filed 9/1999; 9/1998). The reference of Kimura is discussed above and fails to teach the provision of a cooling water pump coaxial with the lay shaft, and driven thereby. Nakano et al. teach a cooling water pump (15) driven by a shaft (35) which is connected coaxially with a lay shaft end (46). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a cooling water pump as taught by Nakano et al. to circulate water in a cooling circuit for the engine of Kimura, for the purpose of providing a greater amount of cooling than may be had from an air-cooling arrangement.

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Allowable Subject Matter

11. Claim 49 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Skatsche et al. (US 4,071,008); Gotoda et al. (US 4,494,637), Yamamiti et al. (US 4,593,785), Szymkowiak (US 4,674,589), Lings (US 4,798,254), Handa et al. (US 4,924,959), Masuda (US 5,829,401), Clavel (US 6,056,080), and Tosaka et al. (US 6,260,515) teach vehicle structures of pertinence.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 703-308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is 703-308-1113.

As of May 1, 2003, any response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Or faxed to:

703-305-3597 or 305-7687 (for formal communications intended for entry; informal or draft communications may be faxed to the same number but should be clearly labeled 'UNOFFICIAL' or 'DRAFT').

The Office has also established electronic fax servers for T.C. 3600:

703-872-9326 (Official communications)
703-872 9327 (Official After-Final communications)
703-872-9325 (Customer Service)

F. VANAMAN
Primary Examiner
Art Unit 3618



9/13/03